

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**FIRST APPEAL NO. 735 OF 1990****For Approval and Signature:****HONOURABLE MR.JUSTICE R.S.GARG**

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of
the judgment ?

4 Whether this case involves a substantial question of
law as to the interpretation of the Constitution of
India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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THE NEW INDIA ASSURANCE CO. LTD - Appellant(s)**Versus****SARABEN R. PARMAR & ORS. - Respondent(s)**

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Appearance :

Shri S.B. Parikh with Shri Rajni H. Mehta for Appellant(s).

Shri Dharmesh V. Shah for Respondent(s) : 1,

Shri I. M. Pandya, AGP for Respondent(s) : 2 - 4.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG**Date : 11/07/2007****ORAL JUDGMENT**

The appellant-Insurance Company, being aggrieved by the
award dated 31st July, 1989 passed by the learned Member, Motor

Accident Claims Tribunal (Main), Bhavnagar in M.A.C.P. No.147 of 1984, is before this Court.

2. Though in the appeal, submissions were made that in case, an employee is travelling in a private vehicle, the Insurance Company would not be answerable, but, in view of a judgement of the Full Bench of this Court in the matter of *New India Assurance Company vs. Thakor Bhemaji Ganeshji*, [1993(2) G.L.R. 1051], it is fairly conceded by the learned Counsel for the appellant that the Insurance Company would be liable to pay the compensation in case of the employee travelling in a private vehicle under Section 95(1)(b) of the Motor Vehicles Act. It is, however, submitted that the liability of the Insurance Company would be limited to Rs.50,000/- with interest and proportionate costs.

3. Shri I.M.Pandya, learned Assistant Government Pleader for the respondent-State, concedes to the legal position and submits that in view of the Full Bench judgement, the liability of the Insurance Company would be restricted to a sum of Rs.50,000/- only.

4. In view of the Full Bench judgement of this Court, it is hereby directed that the Insurance Company would be answerable to the claim made against it to the extent of Rs.50,000/- with interest and proportionate costs, and rest of the amount i.e. Rs.3,861/- with interest

will have to be paid by the State Government. If the Insurance Company has already paid the amount to the claimants, then, they would be entitled to recover the said amount of Rs.3,861/- with 12% interest from the State Government. The interest would be payable from the date of the petition till realisation. If the State Government does not pay the entire amount within a period of two months, then, the Insurance Company would be entitled to execute this order and may even seek attachment of the Government property for recovery of the dues.

5. The appeal is partly allowed with the directions aforesaid.

[R.S.Garg, J.]

*kamlesh**